

an Memoriam

E. 7
J. 6 615

Lowell Edmunds Jackson

Hollinger
pH 8.5
Mill Run F03-2245

E

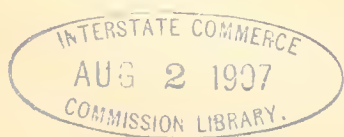
664

J6U5

In Memoriam.

HOWELL EDMUNDS JACKSON.

DUPLICATE CHANGED.





Yours Truly
Hiram C. Jackson

In Memoriam.

HOWELL EDMUNDS JACKSON.

2600
20 25

X
e

By ~~transf.~~
13 Apr '07

ad

PROCEEDINGS.

MONDAY, *October 14, 1895.*

The Bar of the Supreme Court of the United States and the officers of the Court met in the Court Room in the Capitol at 11 o'clock.

On motion of Mr. WILLIAM A. MAURY Mr. RICHARD OLNEY was called to the Chair, and, on motion of Mr. W. HALLETT PHILLIPS, Mr. JAMES H. MCKENNEY was elected Secretary.

On motion of Mr. J. M. DICKINSON the Chair appointed a committee on resolutions:

COMMITTEE ON RESOLUTIONS.

Mr. J. M. DICKINSON, Chairman.	Mr. THOMAS B. TURLEY.
Mr. SAMUEL P. WALKER.	Mr. SAMUEL SHELLABARGER.
Mr. BENJAMIN F. AYER.	Mr. WILLIAM A. MAURY.
Mr. HENRY M. DUFFIELD.	Mr. THOMAS WILSON.
Mr. A. H. GARLAND.	Mr. W. A. SUDDUTH.

On motion of Mr. WILLIAM A. MAURY, the meeting then adjourned, subject to the call of the Chairman.

MONDAY, *November 18, 1895.*

The meeting reassembled at 11 o'clock, upon the call of the Chairman. Mr. RICHARD OLNEY, upon resuming the Chair, said:

Custom makes it the privilege as well as the duty of the presiding officer of this meeting to himself actively participate in its proceedings. I undertake the part your partiality has assigned me with entire consciousness of the many disqualifications under which I labor. My personal acquaintance with Mr. Justice JACKSON was of the most limited character. Two or three brief social occasions, with one or two professional appearances before him as a member of the Supreme Court of the United States, comprise the whole of it. Others will be able to speak of him as a schoolmate or college mate, as a practitioner in the same courts with themselves, as a citizen of the same State, as the Trial Judge before whom they were in constant attendance. I lack any such experiences and am without that familiarity with the details of his history which will make other tributes so interesting and instructive. In these circumstances, but a single consideration has any tendency to justify an attempt on my part to aid in the portraiture of Mr. Justice JACKSON's character.

There is a world of wisdom in the saying of Scripture that "a prophet is not without honor save in his own country and in his own house." His own countrymen and his own family are too near the prophet, know him too well, see him too microscopically. For appreciation of his true proportions there must be opportunity for comparison, a just perspective, and consequently reasonable room and distance. It is entirely possible, therefore, that though my view of Judge JACKSON and his career is almost that of a stranger contemplating them from a somewhat remote standpoint, I may nevertheless have reached in some respects a truer estimate of the whole effect and the whole result than if I had walked by his side during every stage of his earthly journey.

Judge JACKSON, though of Virginian parentage and a graduate of the University of Virginia, was nevertheless a thorough Tennessean. There he was born and acquired the rudiments of knowledge; there he studied law and began its practice and became a leader of the bar; it was Tennessee that sent him to Washington as her Senator; it was as her citizen that he became Judge of the Circuit Court of the United States and thence rose to the

Bench of the Supreme Court; in Tennessee he made his home, the abode of wife and children and the center of his affections; and it was thither he returned to die after a long and wearisome and pathetic search for the strength that was never to be regained. Tennessee boasts a long line of illustrious public men, but can not point to any one among them that does her greater honor. She has indeed had sons whose lives were fuller of incident and motion and dramatic surprises. There was the Jackson of "The Hermitage," the Jackson who triumphed at New Orleans, who hanged Arbutnot, who made Peggy O'Neil a character of national consequence, who removed the deposits, who fought with equal energy nullification and a United States bank, and whose erect commanding person crowned with its wealth of whitened hair, "By the Eternal" on his lips, and in his grasp both the baton of the political leader and the sword of the soldier, forms one of the most picturesque figures on the whole canvas of modern history. If such a life be phenomenal in its power to fix the public gaze and fascinate the popular imagination, that of Judge JACKSON can not be too much extolled as a potent center of beneficent influence none the less valuable and far-reaching in its

effects because neither glittering nor noisy. If any criticism could be made upon Judge JACKSON'S youth, it would seem to be that it was beyond criticism, that he was uniformly good, that he was not young enough, that he was always free from those follies and foibles which, as the bubbling over of the irrepressible spirits natural to that period of life, make the young dear to us almost in the proportion that we have to forbear and forgive and forget. That the freedom from such frailties indicates a certain lack of imagination and of humor is unquestionable, and justifies a deduction borne out by all we know of the man. He never at any time of life, in any marked degree certainly, exhibited qualities of that sort. On the contrary, the child was emphatically father to the man, and from his youth up he was hard-working, exact, logical, loyal to his convictions and his affections, self-contained and self-poised, conscientious and God-fearing. It was these traits which surely, if not very swiftly, placed him in the front rank of an exceptionally able and learned local bar. He seems to have practiced all branches of the profession, to have tried cases to the jury as well as to the court, and as a getter of verdicts had his due share of success. But though he was a clear and

logical speaker, he had not, I think, those exceptional powers of eloquence which enable a few gifted mortals to play upon the hearts of men as a musician upon his instrument, and to sweep juries from their feet in the rush of the appeal to their sympathies. Justice JACKSON must, I imagine, have more resembled a Massachusetts lawyer of whom, at the close of a term of court, the foreman of a jury that had been giving him all the verdicts naively inquired how it was that he always happened to be employed on the right side. The secret of success in his case, as it must have been in that of Judge JACKSON, was the jury's faith and trust in the man, their confidence in his uprightness and his unwillingness to deceive them, so that whoever was his opponent found the scales of justice only too likely to tip against him through the sheer force of his antagonist's unique weight of character. Judge JACKSON's work as a public man began in 1880 and continued until his death. His Senatorial career so impressed his colleagues that his appointment as United States Circuit Judge was due almost as much to their enthusiastic indorsement as to the nomination of a Democratic President. He was the recipient of a similar compliment when President Harrison distin-

gnished the closing days of his administration by nominating him to the Bench of the Supreme Court. Nothing of course could have elicited these tributes from political opponents if they had not reposed absolute confidence in the integrity of the man—in his capacity to be an honest and upright judge—and I believe the man has yet to be found with the hardihood to charge that Judge JACKSON ever decided a cause through fear or favor, or otherwise than in accordance with his convictions of what the law and the facts required. But these marked tributes by men from all sections of the country and of all shades of politics testify not merely to personal character, but to superior legal and judicial qualifications. No man who helped to make him Circuit Judge ever regretted it, or was surprised when he was commanded to go up higher. His characteristics as a judge are so well known both to the bar and the people of the country, through common fame and the reports of his judicial opinions, that only the briefest reference to them need now be made. In his treatment of a cause, the first thing to be noted is his perfect mastery of the facts. He studied them with the utmost care and patience, and allowed no detail to escape him. Yet, while

canvassing them thoroughly, he also analyzed them accurately and rapidly and had a facility in the elimination of the essential from the non-essential features of a cause which often seemed to counsel little less than marvelous. It was this faculty which made him particularly felicitous in dealing with patent causes, while it is said that he could state a complicated account with greater certainty and quickness than any clerk in his circuit. The legal issues being once clearly evolved, there followed a discussion of them which was never perfunctory and never one-sided. He always fully presented the reasons supporting the conclusion to which he had come. But he never ignored the considerations tending to a different conclusion, stated them fully and fairly, and then set forth the grounds upon which, in his judgment, they ought not to prevail. Thus, defeated lawyers and disappointed litigants, while regretting that they had lost, never felt that everything alleged in their favor had not been thoroughly considered. It will not be claimed, I suppose, that Mr. Justice JACKSON was among the most erudite of the lawyers or judges who have adorned the bench or the bar in this country. Doubtless many have been more

familiar with black letter, and doubtless many have surpassed him in the knowledge to be drawn from the infinite stores of ancient and modern legal literature. On the other hand, few lawyers or judges have ever had a firmer grasp of the essential principles which underlie the administration of justice in English-speaking countries. This is especially manifest in such of his written opinions as deal with questions of constitutional law. Indeed, his title to recognition as a great judge might safely rest upon his judicial utterances upon that class of questions alone. He never dealt with them except in a manner the most convincing and satisfactory—except as one whose knowledge of the principles of our form of government is instinctive and ingrained and whose command of the subject is complete. The opinions in the Kentucky Bridge case, where the Interstate-Commerce Law was under consideration, and in the Greene Habeas Corpus case, in which the anti-trust law was involved, are masterly expositions of most important topics of constitutional law. They are pioneer judgments upon new questions and are landmarks in the history of our Federal jurisprudence. It is not too high praise of them to say that they would do credit to any

man that ever sat on the bench of any court in this country.

Time presses, and I feel myself to be claiming an undue share of your attention. I must not omit to observe, however, that the judicial career of Judge JACKSON was in reality just beginning, and that, considerable as had been the actual performance, it was small in comparison with what still rested solely in promise. It may be true that—

“It sounds like stories from the land of spirits,
If any man obtains that which he merits,
Or any merit that which he obtains.”

Yet every rule has exception, and when Judge JACKSON was promoted to the Bench of the United States Supreme Court, there was instant and universal recognition of the happy conjuncture of a man worthy of the place and of a place worthy of the man. I have referred to his life as barren of stirring or sensational features. Yet there was at least one notable exception, and whoever witnessed Judge JACKSON's last judicial effort in this Court Room participated in an event not merely having great national significance, but, in its display of human faculties and human emotions in a state of extraordinary excitement, possessing dramatic elements

rarely exhibited either within or without the halls of Justice. It was much to take part in the memorable scene then enacted, whether as judge, as counsel, as party, or even as spectator. But it was reserved for Judge JACKSON to identify it with the culmination of his honorable career and to give to his dissent something of the solemnity of a message from beyond the tomb. Fortunate in his life, he was even more fortunate in his manner of leaving it. "Men fear death," says Lord Bacon, "as children fear to go into the dark." But the terrors of the "mortal passage" weaken under the spur of a lofty purpose, and to him who, like Judge JACKSON, unfalteringly confronts his fate at the call of duty to be discharged, Heaven sends an exaltation of spirit which casteth out fear, and death is swallowed up in victory.

Mr. J. M. DICKINSON, Chairman of the Committee on Resolutions, then said:

The Committee appointed at a meeting of the Bar of the Supreme Court of the United States, held in the Supreme Court Room at the city of Washington, October 14, 1895, in memory of Mr.

Justice JACKSON, to draft resolutions to be reported at an adjourned meeting, present for consideration the following

RESOLUTIONS:

On August 8, 1895, Mr. Justice HOWELL EDMUNDS JACKSON departed this life at his home, near Nashville, Tennessee.

He was born at Paris, Tennessee, in 1832, obtained his academic education in his native State, graduated at the University of Virginia, and took the degree of Bachelor of Laws at the Cumberland University, in Tennessee.

He practiced law at Jackson and Memphis before the civil war, and at once displayed those qualities which gave promise of the high rank which he subsequently attained in the profession.

He was an earnest believer in the doctrines of the Whig party, was devoted to the Union, and opposed secession. After his native State passed the ordinance of secession and was threatened with invasion, he, like so many others who would have sacrificed their lives, if by this they could have removed the cause of strife and assured a happy union, adhered, with all of the ardor of his nature, to the side his people had chosen in the conflict. The war suspended the activities of civil life, and holding an office under the Confederate Government, which, while one of great trust, left him much leisure, he devoted himself throughout the war to the most laborious and systematic study of the law, thus acquiring an accuracy and breadth of legal knowledge which made him so fully equipped for all of the responsible duties which came to him.

After the close of the civil war he practiced law in Jackson and Memphis, and achieved a reputation second to none of

his competitors. His practice was varied, embracing office work of the most delicate and responsible character, and litigation in all of the State and Federal Courts, and while his services were justly prized as a counsellor and as a Chancery and Supreme Court lawyer, he was no less successful in the severest jury contests, where he achieved great triumphs, not by the graces of oratory, which he never cultivated, nor the meretriciousness of cunning advocacy, which he scorned, but by candor and earnestness, which won the confidence of the jury, and clear, forcible, and logical arguments, which convinced them.

On account of his reputation as a man and lawyer, he was called to a seat upon the Court of Referees of Tennessee, which was a provisional Supreme Court created to assist the regular court to dispose of the vast accumulation of cases occasioned by the civil war. He served on this court with great credit until its term expired.

Though never having taken any active part in politics, he consented, on account of his great interest in the question of the settlement of the State debt of Tennessee, to become a candidate on the State Credit ticket for the State Senate.

Following the custom established by immemorial usage in Tennessee, he met his opponent in joint debate and made the canvass with so much ability and persuasiveness as to win his election in a heated contest, in which he advocated high taxes, the most unwelcome cause that could be championed.

This, though not suspected by him, was the initial point of his national career. A deadlock in the selection of a United States Senator, for which position he was not a candidate, was suddenly solved by his political opponents, who, moved by an estimate of his character like that which, on a later occasion, caused the President to nominate him to the Supreme Bench, came to his support as soon as his friends put his name before the Legislature; and, cooperating with a majority of his own

party, elected him on the first ballot. The offices of United States Senator, Circuit Judge, and Justice of the Supreme Court all came to him in unbroken succession and without expectation or effort on his part.

His career in these honorable and responsible positions is too well known to need recapitulation.

His performance of the labors of his office, even when the hand of death rested heavily upon him, will always remain a pathetic and inspiring picture in the memory of those who saw his heroic efforts.

He was profoundly religious, and an elder in the Presbyterian Church.

His manner was reserved, and yet no one found him difficult of approach. He was frank and courageous in expressing his opinions of men and measures, yet free from bitterness and personal invective. He was serious in affairs, but in the company of friends was always jovial, enlivening conversation with sprightly humor and pointed anecdote. He felt and maintained the dignity of his office, and yet with those amenities which in a judge invest the intercourse between bench and bar with an atmosphere which is as wholesome as it is gracious.

He displayed exact learning, laborious investigation, unfaltering courage, absolute impartiality, and broad patriotism; therefore, be it

Resolved, That the members of the Bar of the Supreme Court of the United States, profoundly impressed with the great loss sustained by the profession and the Nation in the untimely death of Mr. Justice JACKSON, desire to record their esteem for the qualities which distinguished his short career on the Supreme Bench, and which gave such perfect assurance that he was a worthy successor of those distinguished Judges who have administered, with such fidelity and ability, the greatest trust ever confided by a Nation.

Resolved, That we deeply sympathize with the bereaved family of Mr. Justice JACKSON, and that a copy of these resolutions be presented to them by the Secretary of this meeting.

Resolved, That the Attorney-General be requested to present these resolutions to the Supreme Court in session and request that they be recorded.

REMARKS OF MR. J. M. DICKINSON.

MR. CHAIRMAN: It may seem out of place for one who has done so little to identify himself with this Bar, however strongly he may be prompted by sentiments of admiration and friendship, to raise his voice where there are so many older members present, and upon an occasion so memorable, except it be merely to read the resolutions with which, as Chairman, I have been intrusted, and to enter the formal motion for their adoption.

My own inclination and sense of propriety would, under ordinary circumstances, constrain me to silence; but, having heard the eloquent tribute of one from a State so distant from my own, and knowing that there are others present whose purpose it is to speak in praise of one whose name and career reflect such lasting honor upon Ten-

nessee, I feel that for me, her only representative present on the Committee, to be silent, and not to attempt, however feebly, to voice the sentiments of her people on this occasion, would be a disloyalty that would not be condoned.

The acquaintance—I trust I may say with pardonable pride, the intimate acquaintance—which it has been my good fortune to enjoy with Mr. Justice JACKSON throughout the period of his public life, and extending back into the time of his active practice at the Bar, makes me competent on this occasion, when the record which is to perpetuate his memory is being made up by the Bar of the Supreme Court of the United States, to testify to the esteem in which he was held by his people at home.

When one passes away who has reached exalted station, and his record is being reviewed that judgment may be entered up upon it, knowing, as we do, that no man's work is the fruition of one generation, but that in it are focused and expressed the characteristics of those who have gone before him, we turn to inquire who were his forefathers and what were his environments.

While American institutions tolerate no heredi-

tary titles, and while their spirit, maintained in its integrity, pays no tribute to houses of nobility, nevertheless, and especially in these times, when not only American citizenship, but American sentiment, is being so plentifully diluted, we gratefully recognize the nobility of hereditary American worth as the surest guaranty for veneration and love of country and the safest guardian of civil liberty and self-government.

The parents of Mr. Justice JACKSON were both Virginians, coming from families of established worth, tracing their lineage far back in the history of that venerable Commonwealth.

Of the personal characteristics of his mother I know but little. She died in early life. But if it be true that in their sons mothers perpetuate their types, then was she richly endowed, for she gave to the world but two sons, one of whom became a distinguished general in the Confederate service, and the other, not by political influence nor by favoritism, but as a tribute to his worth alone, and in a way most extraordinary, was placed in a seat on that Bench which, on account of the learning, purity, and patriotism of the men who have adorned it and the awful power with which it is entrusted—that of

annulling the acts of a coordinate branch of Government and sitting in final judgment upon controversies between sovereign States—surpasses in dignity all tribunals known in the history of nations.

His father was a man of education, a prominent physician, aggressive in spirit, a leader among men, who impressed himself not only in the affairs of private life but in the larger interests that affected the entire Commonwealth.

Sprung from such parentage, born and brought up in a State whose citizenship has never had two per cent of foreign born, where the Constitution has been the text of public debate from the halls of the Capitol to the country cross-roads, where the very air pulsated with traditions of Kings Mountain and of the war of 1812 and the Mexican war, where the hero of the Hermitage, the very incarnation of love of country, lived, and where his spirit has always abided as an inspiration, Mr. Justice JACKSON was as true to every American sentiment as the needle to the pole.

It is not my purpose to speak at large upon his public career. That has been done and will be done by others more competent than myself. I wish to reflect here the regard in which he was held in his

own State, and to show that he was not one of those who are not without honor save in their own country and their own home.

The lives of public men present dual phases—one turned to the outer world, the other known within narrower circles. Too often, like their statues, they present a fair exterior, while all within is rugged and unseemly.

The private life of Mr. Justice JACKSON was as symmetrical and flawless as his public career. If the spear of an Ithuriel had touched the public man, and laid bare his private life, no incongruities nor deformities would have been revealed to shock or grieve us. In all the relations of life, as citizen, friend, master, parent, husband, he responded to the highest standard of obligations.

Tennessee witnesses with pride this honor that is paid to her son. For a long time, as an inevitable consequence of the civil war, she suffered eclipse in national affairs, and her children could only aspire to those honors which she alone could bestow. In the appointment of Mr. Justice JACKSON to this high trust she rejoiced to see the old era reestablished, and looked forward to a long career of usefulness and honor. But an untimely fate has cut him off in

the plenitude of his powers, when the ripeness of his intellect promised the richest harvest, but not so soon that he had not established himself in the confidence of his countrymen and fixed his reputation upon a sure and lasting basis.

Sadly, but proudly, his native State will enroll his name with those of her distinguished sons who, for nearly half a century, were such conspicuous leaders in shaping the civil and military affairs of this Republic.

Mr. Chairman, on behalf of the Committee, I move the adoption of the resolutions.

REMARKS OF MR. WILLIAM A. MAURY.

Mr. CHAIRMAN: During the short time he sat on the Supreme Bench Mr. Justice JACKSON was, in spite of his modesty and retiring disposition, one of the most interesting figures to which the public eye was directed.

The circumstance of his appointment without attention to party affiliation, the struggle with official duty and with Death that so early began, the loosening of the grasp, and then the return, for at least one

effort more, in the great tax case, the bitterness of wormwood following hard upon the promises of hope—these clothed him with dramatic interest and drew to him general sympathy.

A judge, like JACKSON, is no artificial creation, but, in common with the poet, is Nature's gift. He comes by a sort of divine commission, and men at once recognize and obey him. This, and this alone, seems to account for Judge JACKSON's growth on the Circuit, and for the rapidity of his rise to ascendancy in the higher sphere.

Fitted as he was to bind men to law and lead them onward toward their ideals, it is grievous that he was untimely taken.

But he was more than a cold impersonation of justice and the law's majesty. He was aglow with the sympathies and affections of our common humanity—dear to his family, dear to his friends, dear to all who came within the circle of his sweet influences.

This man was marked by the meekness and simplicity of greatness, and by its indifference to the trappings of high place. The humblest could attract his notice without a sense of being the recipient of a condescension.

His parts were admirably interwoven and fitted to one another. To warmth and geniality he united a cold investigating faculty and a serene, passionless judgment, and underlying all was a firmness and courage that entitled him to stand with those other Jacksons who have made the name ring world-wide. When the torrent of repudiation swept over his State, he stood foursquare against it, and "the rage of the million commanding things evil" could not shake him "in his solid completeness of soul." The example will not be forgotten when the country makes up her jewels.

He came to the bench as befitted him, and "according to that ancient and honorable rule and way of law preferment mentioned by Fleta, *nec prece, nec pretio, nec premio.*" It is a fact that but for the urgency of the appointing power, overbearing all obstacles, JACKSON would not have accepted the commission of Circuit Judge, and so the greater consummation, to which it led, might never have come.

The country's appreciation of the magnanimity and discernment that suggested JACKSON's promotion to the Supreme Bench will, I am sure, be enhanced by a letter he received from the President

just after his name was sent to the Senate, which I am graciously permitted to make public, and now proceed to read:

[Private.]

EXECUTIVE MANSION,
Washington, February 4, 1893.

MY DEAR SIR: I have your telegram thanking me for sending your name to the Senate for the vacant position on the Supreme Bench. My acquaintance with you in the Senate and the information I have had since from the Bar of your Circuit gave me, I thought, the needed assurance that you would exercise the duties of this very high and responsible office with industry, fidelity, and patriotism. I have never believed in a partisan judiciary. Only politics in the larger sense should have anything to do with such appointments. I would not, of course, appoint to the Supreme Bench a man who held views of the Constitution and of the powers of the General Government that I thought subverted or diminished those necessary powers. I have believed from my knowledge of you and representations of others that you were a believer in the Nation and did not sympathize with the opinion that a United States Marshal was an alien officer or that election frauds or any other infraction of the Federal Statutes were deserving of aught but indignant condemnation and punishment. I know you to be a conscientious and industrious judge and a God-fearing man; and if the Senate shall ratify your nomination I do not fear that any passing criticisms which have fallen upon me for your selection will endure. I have been most sincerely desirous of obliterating all sectional divisions; have not been oblivious to the difficulties

under which the South has labored; but have been always most insistent that everybody must obey the law and must yield to every other man his rights under the law.

With very great personal respect and with the best wishes for your happiness and usefulness, I am

Sincerely, your friend,

BENJ. HARRISON.

Hon. HOWELL E. JACKSON,
Nashville, Tennessee.

It would be unbecoming, Mr. Chairman, to attempt to add a syllable to this strong and faithful delineation, drawn by a skillful hand and reflecting the grounds of an opinion made up under one of the gravest responsibilities that belong to the office of President of the United States. What higher sanction! What truer patent of nobility!

REMARKS OF MR. HAROLD G. UNDERWOOD.

GENTLEMEN OF THE BAR OF THE SUPREME COURT: As a junior member of this Bar, having been admitted during the last year that Mr. Justice JACKSON sat upon this Bench, and as a comparatively young man, it is with some hesitation that I seek to voice the sentiments of my State, Wisconsin, in her grief at the loss of the great jurist who has

passed away; but I can only say that there is but one feeling throughout the Bar of my own State, as expressed personally and privately in my hearing, and at the meetings of our several Bar Associations—it is that a giant in jurisprudence has been cut down in his prime, and at almost the beginning of the period of his greatest usefulness.

Perhaps in no other vocation or profession of man is it true that the powers increase to the last. In the field of mechanics, manufactures, trade or commerce, and in the active struggle of life in monetary battles, it is especially true that the younger and stronger push the older and weaker to the wall; but it is equally true, I believe, that the powers of judgment ripen with the advancing years, and that the Judge upon the Bench (occupying, as the servant of justice, the highest place, in my opinion, that is known to or filled by man), when worthy and competent, increases in usefulness, in power, and in wisdom with every year that God permits him to remain. Certainly such a man was Mr. Justice JACKSON, and the loss to the world is the greater in that he had barely reached the three-score years, and just entered upon the final ten, of the allotted span of man's life, with his mental vigor unimpaired,

despite his bodily weakness, and crowned with the long and honorable record of continuous service in the forum and upon the Bench, beginning in his native State, and advancing step by step, not by political favor, but by merit and ability alone, and most frequently through the better judgment of political opponents, to the final post which he occupied and adorned.

All or anything that I could say in his praise or honor has been already better said by others who knew him better, and who were more constantly associated with him. My own acquaintance with him was but slight, but it is a kindly and a pleasant recollection and will always remain such while life lasts.

In conclusion, I merely wish to thank you for your patient attention, and to reverently lay Wisconsin's tribute of honor and respect upon the bier of the dead jurist.

REMARKS OF MR. A. H. GARLAND.

Mr. CHAIRMAN: The very touching, though not wholly unexpected, news of the death of Mr. Justice JACKSON reached me last August at my home in the woods in Arkansas, and it grieved me as the

loss of one near to me; and I ventured then to express my feelings of sincere sorrow to his heart-broken wife at Nashville, Tennessee. That his death was in the nature of a personal affliction to me may be understood when I state that he came to the United States Senate from my native State some two years after I had become a member of that body, and though barely acquainted with him then, I knew a great many of his best friends for years back, and from them I had almost come to know him.

His seat in the Senate was near to mine, and it was but a short time before we became well and closely acquainted, and before a friendship, as I believe, deep and sincere grew up between us, which lasted unbroken till his death.

Quiet, amiable, and modest, always at his post, he did not aggress or push himself forward in the Senate, but took cheerfully the work assigned him there, and did it industriously and ably. His reports on matters referred to him were clear, concise, and cogent, and his discussions were always of similar character. He was untiring in investigation, and slighted no source from which he thought he could derive information.

His demeanor in the Senate was singularly genteel and refined, and in itself a model.

During that time he impressed me as a man of fine constitution and of sound health, and one who took care of himself to preserve his good condition; and I do not suppose that then among all his associates, from all appearances, there was one who had more than he the promise of life to a good green old age. But those secret-working forces of our complex organization, of which we know but little, and in the nature of things can not know much, settled it differently and struck the fatal blow when he would otherwise have been at his best, for his mind had not matured in fact. It was a growing and expanding mind, and would have continued to grow and expand for years to come if he had been spared.

Before his term of service in the Senate expired he was nominated by the President, and at once confirmed by the Senate, for Circuit Judge. Immediately he quit the Senatorial place and duties and repaired to his new field, where his labors were to be exacting almost without cessation, and to a great degree oppressive.

Not having asserted himself and gone forward in

the Senate beyond the requirements of the work put upon him, and especially in work of a judicial character, it is fair to say many of his friends felt a serious apprehension he would not come up to the mark in his position of Judge on the Circuit of large and comprehensive work to which he had been sent. This misgiving was but of short duration; not many weeks were required to dispel it. He went into the work before him not as a novice, but as a veteran trained and equipped for it, and he soon surprised those friends at the enormous amount of work he dispatched with rare industry and impartial ability.

His name in a comparatively short time came up and was registered in the front rank of judicial officers of this country, and the decisions of no judge stood higher and were more eagerly sought for than his.

Like the good and faithful servant, he was called up higher, and he was placed upon the Bench of the Supreme Court of the United States, where he felt at once "at home," needing no introduction, no pupilage, no waiting for a propitious time and an easy case to make his work public.

Sworn in on the 4th of March, 1893, right away

he took his share of cases and worked them off, as though bred and born to the place. He disposed of several important cases before even the 3d of April, 1893, when he delivered the opinion of the Court in *Lasalles v. Georgia* (148 U. S.), a case of great public interest, and drawing in question some of the nicest points that can come before the Courts of this country. His full share or quota of the work he kept up and performed until he could work no longer.

He was as good and true a listener on any Bench as I ever saw. He listened not by odds, ends, and scraps of the case, but from the opening to the closing thereof. He most always interrogated counsel in arguing a case, but he did not, as a rule, put but one question, and that went to the center, the very viscera of the case, and if counsel answered that, his case was argued without further delay or talk.

He had, too, that rare but most valuable of all gifts to one dispensing justice, "that cold neutrality of an impartial judge," which made no man who knew him afraid that the ordeal through which his rights had to pass before him would not be fair, just, and without prejudice.

This good Judge and useful man has done his

work well and most fittingly, and it will stand the test of time; he now owes Nature nothing. And let us, as members of the Bar that knew him so well and admired him so much, treasure his name and memory, and unite in the invocation that he who comes to fill his place—and no one for his own name and fame need be overanxious to try that—may be equal to the great task he undertakes.

The resolutions were then adopted and the meeting adjourned.

SUPREME COURT OF THE UNITED STATES.

MONDAY, *November 25, 1895.*

Present: The Hon. MELVILLE W. FULLER, Chief Justice; STEPHEN J. FIELD, JOHN M. HARLAN, HORACE GRAY, HENRY B. BROWN, GEORGE SHIRAS, JR., EDWARD D. WHITE, Associate Justices.

Mr. Attorney-General HARMON addressed the Court as follows:

It is with more than a sense of official propriety that I comply with the request of the Bar by presenting to the Court their resolutions relating to the late Justice JACKSON. We of his home circuit knew him best. There were his birthplace and his home. There his first regular judicial work was done, by which he made the reputation that led to the call from across the party wall to a seat beside your honors.

The active Bar always feel some misgivings when a man in public life, even though he has won distinction there, is called to the Bench, especially when he has reached middle age. But they soon found that HOWELL EDMUNDS JACKSON was not

so much a Senator who had been appointed Judge as a Judge who had served for a time as Senator. His mind, naturally broad and strong, symmetrically developed, controlled by steady purpose, and directed by industry which seemed almost weariless, would have enabled him to fill with credit any place which requires such qualities. He had so filled the high positions to which the resolutions refer, but he was peculiarly fitted for the duties of a Judge. He had in high degree patience to hear and consider, and firmness to decide. He had an even temper, judgment unprejudiced toward men or things, and a logical turn of mind which naturally shed irrelevance and sophistry and inclined to accuracy of fact and correctness of conclusion. He loved justice in the concrete as well as in the abstract, and felt the pleasure a strong judge always takes in applying the principles of law to the redress of wrongs; but he knew and loved the system of judicial science too well to wrench or impair it, and unsettle the rights of the great body of the people, in seeking to avoid those occasional hardships against which human law, being necessarily general, can not provide. So his decisions were of the kind which build and perfect our jurisprudence, and not a

series of mere arbitrary judgments. There are few among them which the legal mind hesitates to adopt among the precedents which keep the law in healthful life and growth.

He was never chargeable with the blunders of a careless man or the vacillations of a weak one, but won respect even when he failed to convince, because he reached his conclusions by the broad highways and not by indirection or evasion.

Some have excelled him in extent of learning and others in mere force of intellect, but few have equaled him in the comprehensive perception and abiding sagacity which result from a harmony of powers. His vigorous practical understanding was not to be bewildered by details, confused by doubtful or conflicting precedents, nor misled by refinements of reasoning. His decisions always bore the stamp of his own mind and character.

Absorbed as he was in the exacting duties of the Circuit, his health was shaken before he realized it, but he never lost patience or resolution. The vigor he showed as a member of this Court in the number and promptness of his opinions, as well as by their lucid thoroughness, was in spite of the dragging of disease. And one of the most striking instances

of the calm heroism of peace was the resumption of his place when the public interest required it in the Income Tax case. However opinion, legal and lay, was and may remain divided on the questions involved in that case, there is, and will be, no divided judgment about the high qualities shown by the opinion of Mr. Justice JACKSON, which all feared would be, and which was, his last. Though the effort required undoubtedly hastened the end, no true friend or patriot can feel regret, because it has put on imperishable record an example of devotion to public duty whose worth can not be too highly esteemed.

The feeling of personal bereavement which prevails to a very unusual extent among those who knew Justice JACKSON seems to me the highest tribute to his memory. There is no warmth in mere mental power or acquirement, nor in the most careful correctness. These may kindle admiration or envy, but not the affection which is the best tribute of man to man. I do not mean the mere result of pleasant ways, but the sturdy liking implied in the line—

“ He makes no friends who never made a foe.”

He had a kind and considerate nature, but it did not

blind him to his duty, nor swerve him from it; and he was free from that morbid excess of virtue which makes some good men unjust to their friends.

Reputation and honors did not affect his quiet simplicity, nor add to the unobtrusive dignity which needed no assertion.

The entire life of Justice JACKSON illustrates the efficiency of steadfast devotion to duties which come without self-seeking and are met with diligence, earnestness, and sincerity of mind and purpose. His seven years as Circuit Judge gave him time to accomplish a most honorable career. Few positions put capacity and character to so severe a test as the office of judge of a court of first resort and general jurisdiction. This applies with great fitness to the Sixth Circuit, whose four States, reaching from Lake Superior to the Appalachian Range, like a cross-section of the great Republic, present almost every variety of population, business, and laws. Such a judge must admit and exclude evidence, sift, discern, and analyze facts, and apply legal principles generally, all without the advantage of associates, sometimes with slight aid from counsel, and often with little opportunity for study and reflection. Many of his judgments are final, and few are open

to complete review; but every act and utterance undergo the impartial and unerring scrutiny of the bar and the people.

The powers of this highest of all tribunals are too great to be committed to one man alone. Their exercise is placed beyond the reach and above the need of review by the association of minds which stimulate, aid, and correct each other. Who may so fitly join in the deliberations of such a court as those who have stood the highest tests which the profession affords?

Justice JACKSON'S career as a member of this Court was cut short by his untimely death; but he served long enough to confirm the fitness of his selection and sharpen still further our sense of loss. Whoever shall be called to take that vacant place will find it none the easier to fill because it was last held by Justice JACKSON.

The resolutions are as follows:

The Committee appointed at a meeting of the Bar of the Supreme Court of the United States, held in the Supreme Court Room at the city of Washington, October 14, 1895, in memory of Mr. Justice JACKSON, to draft resolutions to be reported at an adjourned meeting, present for consideration the following:

On August 8, 1895, Mr. Justice HOWELL EDMUNDS JACKSON departed this life at his home, near Nashville, Tennessee.

He was born at Paris, Tennessee, in 1832, obtained his academic education in his native State, graduated at the University of Virginia, and took the degree of Bachelor of Laws at the Cumberland University, in Tennessee.

He practiced law at Jackson and Memphis before the civil war, and at once displayed those qualities which gave promise of the high rank which he subsequently attained in the profession.

He was an earnest believer in the doctrines of the Whig party, was devoted to the Union, and opposed secession. After his native State passed the ordinance of secession and was threatened with invasion, he, like so many others who would have sacrificed their lives, if by this they could have removed the cause of strife and assured a happy union, adhered, with all of the ardor of his nature, to the side his people had chosen in the conflict. The war suspended the activities of civil life, and holding an office under the Confederate Government, which, while one of great trust, left him much leisure, he devoted himself throughout the war to the most laborious and systematic study of the law, thus acquiring an accuracy and breadth of legal knowledge which made him so fully equipped for all of the responsible duties which came to him.

After the close of the civil war he practiced law in Jackson and Memphis, and achieved a reputation second to none of his competitors. His practice was varied, embracing office work of the most delicate and responsible character, and litigation in all of the State and Federal Courts, and while his services were justly prized as a counsellor and as a Chancery and Supreme Court lawyer, he was no less successful in the severest jury contests, where he achieved great triumphs, not by the graces of oratory, which he never cultivated, nor the meretriciousness of cunning advocacy, which he scorned, but

by candor and earnestness, which won the confidence of the jury, and clear, forcible, and logical arguments, which convinced them.

On account of his reputation as a man and lawyer, he was called to a seat upon the Court of Referees of Tennessee, which was a provisional Supreme Court created to assist the regular court to dispose of the vast accumulation of cases occasioned by the civil war. He served on this court with great credit until its term expired.

Though never having taken any active part in politics, he consented, on account of his great interest in the question of the settlement of the State debt of Tennessee, to become a candidate on the State Credit ticket for the State Senate.

Following the custom established by immemorial usage in Tennessee, he met his opponent in joint debate and made the canvass with so much ability and persuasiveness as to win his election in a heated contest, in which he advocated high taxes, the most unwelcome cause that could be championed.

This, though not suspected by him, was the initial point of his national career. A deadlock in the selection of a United States Senator, for which position he was not a candidate, was suddenly solved by his political opponents, who, moved by an estimate of his character like that which, on a later occasion, caused the President to nominate him to the Supreme Bench, came to his support as soon as his friends put his name before the Legislature; and, cooperating with a majority of his own party, elected him on the first ballot. The offices of United States Senator, Circuit Judge, and Justice of the Supreme Court all came to him in unbroken succession and without expectation or effort on his part.

His career in these honorable and responsible positions is too well known to need recapitulation.

His performance of the labors of his office, even when the

hand of death rested heavily upon him, will always remain a pathetic and inspiring picture in the memory of those who saw his heroic efforts.

He was profoundly religious, and an elder in the Presbyterian Church.

His manner was reserved, and yet no one found him difficult of approach. He was frank and courageous in expressing his opinions of men and measures, yet free from bitterness and personal invective. He was serious in affairs, but in the company of friends was always jovial, enlivening conversation with sprightly humor and pointed anecdote. He felt and maintained the dignity of his office, and yet with those amenities which in a judge invest the intercourse between bench and bar with an atmosphere which is as wholesome as it is gracious.

He displayed exact learning, laborious investigation, unfaltering courage, absolute impartiality, and broad patriotism; therefore, be it

Resolved, That the members of the Bar of the Supreme Court of the United States, profoundly impressed with the great loss sustained by the profession and the Nation in the untimely death of Mr. Justice JACKSON, desire to record their esteem for the qualities which distinguished his short career on the Supreme Bench, and which gave such perfect assurance that he was a worthy successor of those distinguished Judges who have administered, with such fidelity and ability, the greatest trust ever confided by a Nation.

Resolved, That we deeply sympathize with the bereaved family of Mr. Justice JACKSON, and that a copy of these resolutions be presented to them by the Secretary of this meeting.

Resolved, That the Attorney-General be requested to present these resolutions to the Supreme Court in session and request that they be recorded.

The CHIEF JUSTICE responded:

Mr. Justice JACKSON took his seat as a member of this Court on the 4th of March, 1893, serving for the remainder of the current term, which closed on the 15th of May; sat through the next term, the month of March excepted; and heard argument in a few cases at October term, 1894.

Perhaps no greater eulogium can be passed on him than to say that, brief as was the period during which he was permitted to be with us, he impressed himself upon his colleagues and the country as possessed of the highest attributes of the judicial officer, and left enduring evidence of judicial eminence on the records of the Court.

There was no eccentricity in his success. He came here with a mind disciplined by years of experience in business and political activities, in an extensive professional practice and in the discharge of judicial duties and stored with knowledge of affairs as well as of books, knowledge qualifying him to deal with questions promptly and with practical wisdom, rather than knowledge of things "remote from use, obscure and subtle."

Patience in hearing; assiduity in examination; quickness in grasp; clearness in thought; facility,

simplicity, and directness in expression; all these he had, and they enabled him to find the clew in records however lost in wandering mazes and make it plain for guidance to correct results.

He profoundly realized that the administration of justice is the great end of human society, and that upon the conscientious labors of those to whom that administration is committed the protection of life and liberty and property depends, and so the endeavor to do justice ran like a golden thread through all his work. Added and superior to all other grounds of praise, it could well be said of him, as an eminent English judge said of himself, that there was one merit to which he could boldly lay claim—the determination to do what was right, whenever that could be discovered.

Of the cordial relations between Mr. Justice JACKSON and his brethren, which his engaging qualities of mind and heart rendered of the closest, I do not care to speak. We part with him with a keen sense of personal bereavement as he takes his place in the goodly company of those who have gone before, though still remaining with us one in the blood of common traditions and common labors.

There is little in the performance of judicial

duty to attract popular attention or to win popular applause, but the influence of faithful service such as his—of labors so abundant—of a life shortened by effort in the public interest, “cut, like the diamond, with its own dust”—can scarcely be overestimated, and sooner or later will receive its meed of recognition.

The pathetic incident at the close of Mr. Justice JACKSON'S career, referred to by the Attorney-General, was characteristic of the man. Devotion to duty had marked his course throughout, and he found in its inspiration the strength to overcome the weakness of the outward man, as, weary and languid, he appeared in his seat for the last time in obedience to the demand of public exigency. The response to the roll call under such circumstances gives complete assurance—though, indeed, it was not needed—that when, a few weeks later, he came to the passage of the river, Good Conscience, to whom in his lifetime he had spoken to meet him there, lent him his hand and so helped him over.

The resolutions and the remarks by which they have been accompanied will be entered on our records, and the Court will now adjourn to Monday next.





0 013 787 022 8



LIBRARY OF CONGRESS



0 013 787 022 8